ANALYSIS OF AGREEMENT CONTAINING CONSENT ORDERS TO AID PUBLIC COMMENT

In the Matter of Allergan, Inc. and Inamed Corporation

File No. 061 0031, Docket No. C-4156

The Federal Trade Commission ("Commission") has accepted, subject to final approval, an Agreement Containing Consent Orders ("Consent Agreement") from Allergan, Inc. ("Allergan") and Inamed Corporation ("Inamed"), which is designed to remedy the anticompetitive effects of the proposed acquisition of Inamed by Allergan. Under the terms of the proposed Consent Agreement, the companies would be required to return the development and distribution rights to Reloxin®, a botulinum toxin type A product, to Ipsen Ltd. ("Ipsen"), its manufacturer.

The proposed Consent Agreement has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the proposed Consent Agreement and the comments received and will decide whether it should withdraw from the proposed Consent Agreement, modify it, or make final the Decision and Order ("Order").

Pursuant to an Agreement and Plan of Merger dated December 20, 2005, Allergan proposes to acquire all of the outstanding common shares of Inamed in a transaction valued at approximately $3.2 billion ("Acquisition"). The Commission's complaint alleges that the proposed acquisition, if consummated, would violate Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45, by eliminating the next most likely entrant in the market for cosmetic botulinum toxins. The proposed Consent Agreement would remedy the alleged loss of potential competition that would result from the merger in this market.

Botulinum toxin is an increasingly popular, non-surgical treatment for wrinkles caused by repetitive muscle movement, such as the "worry lines" that appear on the forehead when a person frowns. Botulinum toxin is uniquely effective in temporarily eliminating these "dynamic wrinkles" because it is the only product that can paralyze the underlying muscles associated with these wrinkles. Although there are many products and procedures that can be used to treat facial wrinkles, such as dermal fillers, topical creams, lasers, chemical peels, and surgery, botulinum toxin therapy is sufficiently differentiated from these other products and procedures that they are not close economic substitutes.

Allergan is the dominant supplier of cosmetic botulinum toxin in the United States. Allergan's Botox® is the only botulinum toxin type A approved by the U.S. Food and Drug Administration ("FDA") for the treatment of facial wrinkles. In 2002, Ipsen granted Inamed the exclusive rights to develop and distribute a botulinum toxin type A product for facial cosmetic indications in the United States. Tentatively branded Reloxin®, Inamed's cosmetic botulinum

toxin product is currently in Phase III clinical trials and is expected to be the first serious challenger to Botox® in the United States. Other firms' cosmetic botulinum toxin development programs lag well behind Inamed's Reloxin® program.

Entry into the market for cosmetic botulinum toxin would not be timely, likely, or sufficient in its magnitude, character, and scope to deter or counteract the anticompetitive effects of the Acquisition. Developing and obtaining FDA approval for manufacture and sale of cosmetic botulinum toxin takes at least two years due to substantial regulatory and technological barriers.

According to the Commission's complaint, the proposed acquisition likely would cause significant anticompetitive harm to consumers in the U.S. market for cosmetic botulinum toxin by eliminating potential competition between Allergan and Inamed. The entry of Reloxin®, which is expected to be the second botulinum toxin product to receive FDA approval for the treatment of facial wrinkles, would increase competition and likely reduce prices to consumers. Accordingly, allowing Allergan to control both Botox® and Reloxin® would likely force customers to pay higher prices for cosmetic botulinum toxin.

The proposed Consent Agreement contains several provisions designed to ensure the successful and timely entry of Reloxin® by requiring that: (1) Allergan and Inamed divest the Reloxin® development and distribution rights, including the ongoing clinical trials and certain intellectual property, back to Ipsen; (2) Allergan and Inamed take steps to ensure that confidential business information relating to Reloxin® will not be obtained or used by Allergan; and (3) Ipsen and/or its future marketing partner have the opportunity to enter into employment contracts with certain key individuals who have experience relating to Reloxin®.

The Commission has appointed Charles A. Riepenhoff, Jr. of KPMG LLG as Interim Monitor to oversee the transfer of confidential business information back to Ipsen and to ensure compliance with all of the provisions of the proposed consent order. Mr. Riepenhoff has over thirty-four years of experience in the health care industry. To ensure that the Commission remains informed about the status of the proposed assets and transfers of assets, the proposed Consent Agreement requires Allergan and Inamed to file reports with the Commission periodically until the divestitures and transfers are accomplished.

The purpose of this analysis is to facilitate public comment on the Consent Agreement, and it is not intended to constitute an official interpretation of the Consent Agreement or to modify its terms in any way.